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AMENDED IN SENATE JUNE 16, 2014

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AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1826**

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**Introduced by Assembly Member Chesbro  
(Coauthors: Assembly Members Gordon, Skinner, Ting, and  
Williams)**

February 18, 2014

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An act to add Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Chesbro. Solid waste: organic waste.

(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program that requires each county and city and county to prepare and submit to the department a countywide integrated waste management plan. The act requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements.

This bill would require a business that generates a specified amount of organic waste per week to arrange for recycling services for that organic waste in a specified manner. The bill would decrease the amount of organic waste under which a business would be subject to those requirements from 8 cubic yards or more during 2016 to 4 cubic yards or more during 2017. The bill would also require a business that generates 4 cubic yards or more of commercial solid waste per week, on and after January 1, 2019, to arrange for organic waste recycling services and would decrease that amount to 2 cubic yards, if the department makes a specified determination on or after January 1, 2020.

This bill would require the contract or work agreement between a business and a gardening or landscaping service to require the organic waste generated by those services to comply with the requirements of this act.

This bill would require each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste from the businesses subject to this act, except as specified with regard to rural jurisdictions, thereby imposing a state-mandated local program by imposing new duties on local government agencies. The bill would require each jurisdiction to report to the department on its progress in implementing the organic waste recycling program, and the department would be required to review whether a jurisdiction is in compliance with this act.

This bill would authorize a local governmental agency to charge and collect a fee from an organic waste generator to recover the local governmental agency's costs incurred in complying with this act.

This bill would require the department to identify and recommend actions to address permitting and siting challenges and to encourage the continued viability of the state's organic waste processing and recycling infrastructure, in partnership with the California Environmental Protection Agency and other specified state and regional agencies. The bill also would require the department to cooperate with local jurisdictions and industry to provide assistance and incentives for increasing the feasibility of organic waste recycling and to identify certain financing mechanisms and funding incentives and post this information on its Internet Web site.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 12.9 (commencing with Section 42649.8) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 12.9. RECYCLING OF ORGANIC WASTE

42649.8. For purposes of this chapter, the following terms shall apply:

(a) "Business" means a commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling.

(b) "Commercial waste generator" means a business subject to subdivision (a) of Section 42649.2.

(c) "Organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

(d) "Organic waste generator" means a business subject to subdivision (a) of Section 42649.81.

~~(e) For purposes of this section "organic waste recycling facility" means a facility that meets the definition of a compostable handling operation or facility that is defined in paragraph (12) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations.~~

~~(f)~~

(e) "Rural jurisdiction" means a jurisdiction that is located entirely within one or more rural counties, or a regional agency comprised of jurisdictions that are located within one or more rural counties.

~~(g)~~

(f) "Rural county" means a county that has a total population of less than 100,000 persons.

~~(h)~~

(g) “Self-hauler” means a business that hauls its own waste rather than contracting for that service and “self-haul” means to act as a self-hauler.

42649.81. (a) (1) On and after January 1, 2016, a business that generates eight cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b).

(2) On and after January 1, 2017, a business that generates four cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b).

(3) On and after January 1, 2019, a business that generates four cubic yards or more of commercial solid waste, as defined in Section ~~42469.1~~, 42649.1, per week, shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b).

(4) On or after January 1, 2020, if the department determines that statewide disposal of organic waste has not ~~decreased by~~ *been reduced to* 50 percent ~~from~~ *of* the level of disposal ~~of~~ during 2014, a business that generates two cubic yards or more per week of commercial solid waste shall arrange for the organic waste recycling services specified in paragraph (3), unless the department determines that this requirement will not result in significant additional reductions of organics disposal.

(5) A business located in a rural jurisdiction that is exempted pursuant to paragraph (2) of subdivision (a) of Section 42649.82 is not subject to this chapter.

(b) A business subject to subdivision (a) shall take at least one of the following actions:

(1) Source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service *that includes collection and recycling of organic waste*.

(2) Source separate organic waste from other solid waste and manage its organic waste onsite or self-haul its own organic waste.

(3) Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.

(4) Make other arrangements consistent with paragraph (3) of subdivision (b) of Section ~~42469.84~~. 42649.84.

1 (c) A business that is a property owner may require a lessee or  
2 tenant of that property to source separate their organic waste to  
3 aid in compliance with this section.

4 (d) A business generating organic waste shall arrange for the  
5 recycling services required by this section in a manner that is  
6 consistent with state and local laws and requirements, including a  
7 local ordinance or local jurisdiction's franchise agreement,  
8 applicable to the collection, handling, or recycling of solid and  
9 organic waste.

10 (e) When arranging for gardening or landscaping services, the  
11 contract or work agreement between a business subject to this  
12 section and a gardening or landscaping service shall require the  
13 organic waste generated by those services to be managed in  
14 compliance with this chapter.

15 (f) (1) A multifamily residential dwelling that consists of fewer  
16 than five units is not a business for purposes of this chapter.

17 (2) A business that is a multifamily dwelling is not required to  
18 arrange for the organic waste recycling services specified in  
19 subdivision (b) for food waste that is generated by the business.

20 (g) If separate organic waste collection and recycling services  
21 are not offered through a local ordinance or local jurisdiction's  
22 franchise agreement, a business generating organic waste may  
23 arrange for separate organic waste collection and recycling services,  
24 until the local ordinance or local jurisdiction's franchise agreement  
25 includes organic waste recycling services.

26 42649.82. (a) (1) In addition to the requirements of Section  
27 42649.3, on and after January 1, 2016, each jurisdiction shall  
28 implement an organic waste recycling program that is appropriate  
29 for that jurisdiction and designed specifically to divert organic  
30 waste generated by businesses subject to Section 42649.81, whether  
31 or not the jurisdiction has met the requirements of Section 41780.

32 (2) (A) A county board of supervisors of a rural county may  
33 adopt a resolution, as prescribed in this paragraph, to make the  
34 rural county exempt from the requirements of this section. If a  
35 rural jurisdiction is a city, the city council may adopt a resolution,  
36 as prescribed in this paragraph, to make the rural jurisdiction  
37 exempt from this section. If a rural jurisdiction is a regional agency  
38 comprised of jurisdictions that are located entirely within one or  
39 more rural counties, the board of the regional agency may adopt

1 a resolution, as prescribed in this paragraph, to make the rural  
2 jurisdiction is exempt from the requirements of this section.

3 (B) A resolution adopted pursuant to subparagraph (A) shall  
4 include findings as to the purpose of and need for the exemption.

5 (C) A resolution to exempt a rural jurisdiction pursuant to  
6 subparagraph (A) shall be submitted to the department at least six  
7 months prior to the operative date of the exemption.

8 (D) On or after January 1, 2020, if the department determines  
9 that statewide disposal of organic waste has not been reduced to  
10 50 percent of the level of disposal during the 2014 calendar year,  
11 all exemptions authorized by this paragraph shall terminate unless  
12 the department determines that applying this chapter to rural  
13 jurisdictions will not result in significant additional reductions of  
14 disposal of organic waste.

15 (b) If a jurisdiction, as of January 1, 2016, has in place an  
16 organic waste recycling program that meets the requirements of  
17 this section, it is not required to implement a new or expanded  
18 organic waste recycling program.

19 (c) The organic waste recycling program required by this section  
20 shall be directed at organic waste generators and may include, but  
21 is not limited to, one or more of the following:

22 (1) Implementing a mandatory commercial organic waste  
23 recycling policy or ordinance that addresses organic waste  
24 recycling.

25 (2) Requiring a mandatory commercial organic waste recycling  
26 program through a franchise contract or agreement.

27 (3) Requiring organic waste to go through a source separated  
28 or mixed processing system that diverts material from disposal.

29 (d) The organic waste recycling program shall do all of the  
30 following:

31 (1) Identify all of the following:

32 (A) Existing organic waste recycling facilities within a  
33 reasonable vicinity and the capacities available for materials to be  
34 accepted at each facility.

35 (B) Existing solid waste and organic waste recycling facilities  
36 within the jurisdiction that may be suitable for potential expansion  
37 or colocation of organic waste processing or recycling facilities.

38 (C) Efforts of which the jurisdiction is aware that are underway  
39 to develop new private or public regional organic waste recycling  
40 facilities that may serve some or all of the organic waste recycling

1 needs of the commercial waste generators within the jurisdiction  
2 subject to this chapter, and the anticipated timeframe for  
3 completion of those facilities.

4 (D) Closed or abandoned sites that might be available for new  
5 organic waste recycling facilities.

6 (E) Other nondisposal opportunities and markets.

7 (F) Appropriate zoning and permit requirements for the location  
8 of new organic waste recycling facilities.

9 (G) Incentives available, if any, for developing new organic  
10 waste recycling facilities within the jurisdiction.

11 (2) Identify barriers to siting new or expanded organic waste  
12 recycling facilities and specify a plan to remedy those barriers that  
13 are within the control of the local jurisdiction.

14 (3) Provide for the education of, outreach to, and monitoring  
15 of, businesses. The program shall require the jurisdiction to notify  
16 a business if the business is not in compliance with Section  
17 42649.81.

18 (e) The organic waste recycling program may include any one  
19 or more of the following:

20 (1) Enforcement provisions that are consistent with the  
21 jurisdiction's authority, including a structure for fines and penalties.

22 (2) Certification requirements for self-haulers.

23 (3) Exemptions, on a case-by-case basis, from the requirements  
24 of Section 42649.81 that are deemed appropriate by the jurisdiction  
25 for any of the following reasons:

26 (A) Lack of sufficient space in multifamily complexes or  
27 businesses to provide additional organic material recycling bins.

28 (B) The current implementation by a business of actions that  
29 result in the recycling of a significant portion of its organic waste.

30 (C) The business or group of businesses does not generate at  
31 least one-half of a cubic yard of organic waste per week.

32 (D) Limited-term exemptions for extraordinary and unforeseen  
33 events.

34 (f) (1) Each jurisdiction shall provide the department with  
35 information on the number of regulated businesses that generate  
36 organic waste and, if available, the number that are recycling  
37 organic waste. The jurisdiction shall include this information as  
38 part of the annual report required pursuant to Section 41821.

39 (2) On and after August 1, 2017, in addition to the information  
40 required by paragraph (1), each jurisdiction shall report to the

1 department on the progress achieved in implementing its organic  
2 waste recycling program, including education, outreach,  
3 identification, and monitoring, on its rationale for allowing  
4 exemptions, and, if applicable, on enforcement efforts. The  
5 jurisdiction shall include this information as part of the annual  
6 report required pursuant to Section 41821.

7 (g) (1) The department shall review a jurisdiction's compliance  
8 with this section as part of the department's review required by  
9 Section 41825.

10 (2) The department also may review whether a jurisdiction is  
11 in compliance with this section at any time that the department  
12 receives information that a jurisdiction has not implemented, or is  
13 not making a good faith effort to implement, an organic waste  
14 recycling program.

15 (h) During a review pursuant to subdivision (g), the department  
16 shall determine whether the jurisdiction has made a good faith  
17 effort to implement its selected organic waste recycling program.  
18 For purposes of this section, "good faith effort" means all  
19 reasonable and feasible efforts by a jurisdiction to implement its  
20 organic waste recycling program. During its review, the department  
21 may include, but is not limited to, consideration of the following  
22 factors in its evaluation of a jurisdiction's good faith effort:

23 (1) The extent to which businesses have complied with Section  
24 42649.81, including information on the amount of disposal that is  
25 being diverted from the businesses, if available, and on the number  
26 of businesses that are complying with Section 42649.81.

27 (2) The recovery rate of the organic waste from the material  
28 recovery facilities that are utilized by the businesses, all  
29 information, methods, and calculations, and any additional  
30 performance data, as requested by the department from the material  
31 recovery facilities pursuant to Section 18809.4 of Title 14 of the  
32 California Code of Regulations.

33 (3) The extent to which the jurisdiction is conducting education  
34 and outreach to businesses.

35 (4) The extent to which the jurisdiction is monitoring businesses  
36 and notifying those businesses that are not in compliance.

37 (5) The appropriateness of exemptions allowed by the  
38 jurisdiction.

39 (6) The availability of markets for collected organic waste  
40 recyclables.



1 (7) Budgetary constraints.

2 (8) In the case of a rural jurisdiction, the effects of small  
3 geographic size, low population density, or distance to markets.

4 (9) The availability, or lack thereof, of sufficient organic waste  
5 processing infrastructure, organic waste recycling facilities and  
6 other nondisposal opportunities and markets.

7 (10) The extent to which the jurisdiction has taken steps that  
8 are under its control to remove barriers to siting and expanding  
9 organic waste recycling facilities.

10 42649.83. (a) If a jurisdiction adds or expands an organic  
11 waste recycling program to meet the requirements of Section  
12 42649.82, the jurisdiction shall not be required to revise its source  
13 reduction and recycling element or obtain the department's  
14 approval pursuant to Article 1 (commencing with Section 41800)  
15 of Chapter 7 of Part 2.

16 (b) If an addition or expansion of a jurisdiction's organic waste  
17 recycling program is necessary, the jurisdiction shall include this  
18 information in the annual report required pursuant to Section  
19 41821.

20 42649.84. (a) This chapter does not limit the authority of a  
21 local governmental agency to adopt, implement, or enforce a local  
22 organic waste recycling requirement, or a condition imposed upon  
23 a self-hauler, that is more stringent or comprehensive than the  
24 requirements of this chapter.

25 (b) This chapter does not modify, limit, or abrogate in any  
26 manner any of the following:

27 (1) A franchise granted or extended by a city, county, city and  
28 county, or other local governmental agency.

29 (2) A contract, license, or permit to collect solid waste  
30 previously granted or extended by a city, county, city or county,  
31 or other local governmental agency.

32 (3) The existing right of a business to sell or donate its recyclable  
33 organic waste materials.

34 (c) Notwithstanding any other requirement of this chapter,  
35 nothing in this chapter modifies, limits, or abrogates the authority  
36 of a local jurisdiction with respect to land use, zoning, or facility  
37 siting decisions by or within that local jurisdiction.

38 42649.85. A local governmental agency may charge and collect  
39 a fee from an organic waste generator to recover the local

1 governmental agency's costs incurred in complying with this  
2 chapter.

3 42649.86. (a) The department shall identify and recommend  
4 actions to address, with regard to both state agencies and the federal  
5 government, the permitting and siting challenges associated with  
6 composting and anaerobic digestion, and to encourage the  
7 continued viability of the state's organic waste processing and  
8 recycling infrastructure, in partnership with the California  
9 Environmental Protection Agency and other state and regional  
10 agencies. These other state and regional agencies shall include,  
11 but are not limited to, the State Air Resources Board, the State  
12 Energy Resources Conservation and Development Commission,  
13 the Public Utilities Commission, the Department of Food and  
14 Agriculture, the State Water Resources Control Board, California  
15 regional water quality control boards, and air pollution control and  
16 air quality management districts.

17 (b) The department shall cooperate with local ~~government~~  
18 *governmental* agencies and industry to provide assistance and  
19 incentives for increasing the feasibility of organic recycling by  
20 promoting processing opportunities and the development of new  
21 infrastructure of sufficient capacity to meet the needs of generators,  
22 and developing sufficient end-use markets throughout the state for  
23 the quantity of organic waste required to be diverted.

24 (c) The department shall identify and post on its Internet Web  
25 site financing mechanisms and funding incentives that are available  
26 for in-state development of organic waste infrastructure to help  
27 the state achieve its greenhouse gas reduction goals and waste  
28 reduction goals.

29 SEC. 2. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 a local agency or school district has the authority to levy service  
32 charges, fees, or assessments sufficient to pay for the program or  
33 level of service mandated by this act, within the meaning of Section  
34 17556 of the Government Code.